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**Via Hand Delivery**

November 13, 2000

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

RECEIVED  
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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Re: MM Docket No. 99-339 - Comments on the Petitions for  
Reconsideration and Clarification**

Dear Ms. Salas:

The National Council on La Raza (NCLR) submits this letter providing comments in support of certain Petitions for Reconsideration filed in response to the Commission's *Video Description Order*.<sup>1</sup>

NCLR is the nation's largest Hispanic civil rights organization. We serve over three million Hispanics through a formal network of "affiliates"--250 Hispanic community-based organizations that together operate in 39 states, Puerto Rico, and the District of Columbia. NCLR serves as a voice for Hispanic Americans nationwide.

NCLR is participating in this proceeding in order to address issues related to the use of the Secondary Audio Program ("SAP") for Spanish language audio.<sup>2</sup> Because of the final wording of the rules, we are very concerned that the issues we raised in our Reply Comments were not adequately addressed. Consequently, we are filing this letter in support of the petition for reconsideration filed by HBO that would protect and facilitate the use of Spanish language audio over the SAP channel.

<sup>1</sup> Implementation of Video Description of Video Programming, *Report and Order*, MM Docket No. 99-939, FCC 00-258 (Sept. 11, 2000) (hereinafter "*Video Description Order*").

<sup>2</sup> NCLR filed joint reply comments in this proceeding with LULAC on March 24, 2000 (hereinafter LULAC/NCLR Reply Comments).



File of Replies rec'd 07/11  
LULAC

Program Offices: Phoenix, Arizona • San Antonio, Texas • Los Angeles, California • Chicago, Illinois  
LA RAZA: The Hispanic People of the New World

As we indicated in our Reply Comments, the use of the SAP for Spanish language audio is an important cultural resource for Spanish-speaking Americans.<sup>3</sup> It is also undisputed that the SAP channel of broadcast and cable programmers is capable of carrying only one audio “stream” per television channel.<sup>4</sup> This effectively means that to mandate video description on that channel requires that it be used for video description, no matter what the demand for other audio uses may be.

Although not all networks are covered by the rules, the rules as announced in the *Video Description Order* apply to one programming network (HBO) that already provides extensive use of the SAP for Spanish language audio.<sup>5</sup> The rules also do not provide any means for programming networks to seek relief from the rules should they find themselves in need of using the SAP channel for a use other than video description such as Spanish language audio.<sup>6</sup>

The unintended result of applying the rules to HBO is especially burdensome on the Spanish-speaking community. In the *Video Description Order*, the Commission indicated that “[t]hose few networks that provide more extensive Spanish language audio are not among the networks that will be affected by our rules.”<sup>7</sup> Although the Commission expressly mentioned HBO as a network that would be excluded from the rules,<sup>8</sup> the Commission erred by choosing language in the text of the rules that sweeps HBO within its scope.<sup>9</sup> Because of the extensive Spanish language audio that HBO provides (approximately 94 percent of HBO’s prime time schedule), the Commission should revise its rules during this reconsideration process to accurately reflect its intent to exclude the HBO program service.

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<sup>3</sup> LULAC/NCLR Reply Comments at 2-3.

<sup>4</sup> *Video Description Order*, ¶ 34; MPAA Comments at iv, 22; NCTA Comments at 11-14; HBO Reconsideration Petition at 5-6. Even video description proponents admit that “today’s SAP-channel technology can only provide a single alternative audio service at one time.” WGBH Comments at 18.

<sup>5</sup> HBO Reconsideration Petition at 3-4.

<sup>6</sup> Turner Reconsideration Petition at 7-8; NCTA Reconsideration Petition at 16-17.

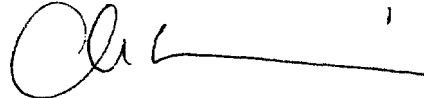
<sup>7</sup> *Video Description Order*, ¶ 34.

<sup>8</sup> *Video Description Order*, ¶ 34, n.103.

<sup>9</sup> HBO Reconsideration Petition at 2-4.

NCLR urges the Commission to permit the large Spanish-speaking community to continue to enjoy the programming of HBO and to allow programmers to have the flexibility to develop Spanish language audio as they deem appropriate. We urge the FCC to reconsider its video description rules and adopt the measures specified above that will promote the accessibility of popular television programming to the Spanish-speaking audience.

Sincerely,

A handwritten signature in black ink, appearing to be 'Ch Kamasaki', with a long horizontal line extending to the right.

Charles Kamasaki  
Senior Vice President

CC: Service List

## CERTIFICATE OF SERVICE

The undersigned, Joanne Hughes, hereby certifies that this 13th day of November, 2000, I have caused a true and correct copy of the foregoing Comments of the National Council of La Raza to be served via U.S. first class mail, postage prepaid, on the following:

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